

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Institutional Cost Contribution
Requirement for Competitive Products

Docket No. RM2017-1

ADVANCE NOTICE OF PROPOSED RULEMAKING
TO EVALUATE THE INSTITUTIONAL COST CONTRIBUTION REQUIREMENT
FOR COMPETITIVE PRODUCTS

(Issued November 22, 2016)

I. INTRODUCTION

The Commission initiates this rulemaking to seek comments and facilitate the Commission's examination of the appropriate minimum contribution to the Postal Service's institutional costs that competitive products must provide, pursuant to 39 U.S.C. 3633(b).

II. BACKGROUND

The Postal Accountability and Enhancement Act (PAEA) directed the Commission to promulgate regulations to ensure that competitive products, collectively,

cover an appropriate share of the Postal Service's institutional costs.¹ In the initial rulemaking setting the appropriate share, the Commission gave considerable weight to the historical contribution made by items categorized as competitive products by the PAEA and set the minimum contribution level for competitive products at 5.5 percent of total institutional costs.² The 5.5 percent minimum contribution level was set in line with the competitive products' estimated contribution to institutional costs of 5.4 percent in Fiscal Year (FY) 2005 and 5.7 percent in FY 2006.³

The PAEA further directs the Commission to revisit competitive products' minimum contribution level every 5 years and determine whether the institutional cost contribution requirement of 39 U.S.C. 3633(a)(3) should be retained in its current form, modified, or eliminated. See 39 U.S.C. 3633(b).

The Commission's first 5-year review occurred in Docket No. RM2012-3.⁴ In that docket, the Commission found the minimum contribution level of 5.5 percent for competitive products should be retained.⁵

Five years have passed since the Commission's previous review. As such, the Commission initiates Docket No. RM2017-1 to conduct its second review of the competitive products' appropriate share contribution requirement. The Commission will decide whether 39 CFR 3015.7(c) should be retained in its current form, modified, or eliminated. See 39 CFR 3015.7(c).

¹ Postal Accountability and Enhancement Act (PAEA), Pub. L. 109-435, 120 Stat. 3198 (2006); See 39 U.S.C. 3633(a)(3). See also 39 CFR 3015.7(c).

² Docket No. RM2007-1, Order No. 43, Order Establishing Ratemaking Regulations for Market Dominant and Competitive Products, October 29, 2007, ¶¶ 3040-47.

³ See Docket No. RM2007-1, Order No. 26, Order Proposing Regulations to Establish a System of Ratemaking, August 15, 2007, at ¶ 3059.

⁴ Docket No. RM2012-3, Order Reviewing Competitive Products' Appropriate Share Contributions to Institutional Costs, August 23, 2012 (Order No. 1449).

⁵ Order No. 1449 at 24-26. The Commission considered circumstances such as a lack of evidence of a Postal Service competitive advantage; the market share analysis; changes to the market and competitors; historical competitive contribution levels; changes to competitive product offers and the mail mix; and uncertainties raised in the proceeding. *Id.* at 24.

III. INVITATION TO COMMENT

Interested persons are invited to provide written comments to facilitate the Commission in its examination of the appropriateness of the current contribution level for competitive products. Only comments filed in the instant docket will be considered as part of the Commission's review. Comments related to the Commission's 5-year review and competitive products' appropriate share of institutional costs filed in other dockets will not be considered.⁶

Comments are due no later than January 23, 2017. Reply comments are due no later than March 9, 2017. All comments and suggestions received will be available for review on the Commission's website, <http://www.prc.gov>.

Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in the above-captioned docket.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. RM2017-1, in compliance with 39 U.S.C. 3633(b).
2. Comments are due no later than January 23, 2017. Reply comments are due no later than March 9, 2017.

⁶ In Docket No. RM2016-2, as part of Proposal Three, UPS petitioned for a review of competitive products' share of institutional costs. Docket No RM2016-2, Petition of United Parcel Service, Inc. for the Initiation of Proceedings to Make Changes to Postal Service Costing Methodologies, October 8, 2015, at Proposal Three. In its final order in that docket, the Commission declined to consider Proposal Three but stated it will conduct its review as required by section 3633(b). Docket No. RM2016-2, Order No. 3506, Order Concerning United Parcel Service, Inc.'s Proposed Changes to Postal Service Costing Methodologies (UPS Proposals One, Two, and Three), September 9, 2016.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.
 4. The Secretary shall arrange for publication of this Notice in the *Federal Register*.
- By the Commission.

Stacy L. Ruble
Secretary